

Introduced by Senator Florez

February 6, 2006

An act to amend Section 14007 of, and to add Article 5 (commencing with Section 14085) to Chapter 3 of Division 7 of the Food and Agricultural Code, relating to pesticide.

LEGISLATIVE COUNSEL'S DIGEST

SB 1229, as introduced, Florez. Pesticide: notice of intent pilot program.

Existing law provides that no person shall use or possess any pesticide designated as a restricted material for any agricultural use except under written permit of the county Agricultural Commissioner. Existing law provides that this permit may be issued for a one-year period and that the permittee must immediately report any change in the information submitted or pertinent to the issuance of the permit.

This bill would also require Kern County permittees to indicate to the commissioner his or her preferred method of notification, as specified.

Existing regulatory law provides that an Agricultural Commissioner may require notice of intent by a permitted user at least 24 hours prior to commencing the application of a pesticide.

This bill would require, pursuant to a pilot program, that when property located in Kern County is to be treated with a pesticide listed on the California Restricted Materials list, the property operator, an authorized representative, or the licensed pest control operator who is to apply the restricted material, to submit notice of intent to the commissioner at least 48 hours prior to the intended application. This bill would also require the Kern County Agricultural Commissioner to then notify adjacent permittees that a restricted material is scheduled to be used or applied on an adjacent property.

This bill would require a permittee, after receiving the notice, to determine whether the application will create a health risk for any person employed on property under his or her control and to take all necessary steps to protect those workers from pesticide exposure. This bill would also provide that an adjacent permittee may also confer with the applicant to suggest an agreeable alternative application plan, as specified.

This bill would provide that its provisions shall remain operative only until January 1, 2009.

Because this bill would require local officials to perform additional duties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and declares that
2 the pilot program put forth in this act is intended to increase the
3 level of communication between members of the Kern County
4 farming community, to provide further information to the
5 Agricultural Commissioner, with the intent of reducing the risk
6 of pesticide drift exposure to agricultural workers and
7 determining if the program is effective, and, if so, whether it
8 should be expanded.

9 SEC. 2. Section 14007 of the Food and Agricultural Code is
10 amended to read:

11 14007. (a) Every permit that is issued under the regulations
12 adopted pursuant to this chapter is conditioned upon compliance
13 with this code and regulations adopted pursuant thereto and upon
14 other specified conditions that may be required to accomplish the
15 purposes of this chapter.

1 (b) Any permit may be issued for a one-year period. Permits
2 issued for perennial agricultural plantings, nonproduction
3 agricultural sites, or nonagricultural sites may be issued for up to
4 a three-year period.

5 (c) *Pursuant to the pilot program established in Article 5*
6 *(commencing with Section 14085) of Chapter 3 of Division 7,*
7 *Kern County permittees shall indicate to the commissioner his or*
8 *her preferred method of notification, so long as that method can*
9 *be audited should a conflict arise.*

10 (d) The permittee or a designated agent shall report
11 immediately any change in the information submitted or
12 pertinent to the issuance of a valid permit to the appropriate
13 commissioner.

14 SEC. 3. Article 5 (commencing with Section 14085) is added
15 to Chapter 3 of Division 7 of the Food and Agricultural Code, to
16 read:

17
18 Article 5. Pesticide Application Notification Pilot Program
19

20 14085. (a) It is the intent of the Legislature that a pilot
21 program be established and implemented in Kern County
22 pursuant to this article.

23 (b) Under the pilot program established by this article, when
24 property located in Kern County is to be treated with a pesticide
25 listed on the California Restricted Materials list published by the
26 Department of Pesticide Regulation, the operator of the property,
27 his or her authorized representative, or the licensed pest control
28 operator who is to apply the restricted material shall submit
29 notice of intent to the Agricultural Commissioner prior to the use
30 of the pesticide pursuant to a permit. This notice shall be
31 submitted to the commissioner at least 48 hours prior to the
32 intended application.

33 (c) The notice shall include all of the following information:

- 34 (1) The date the intended application is to commence.
35 (2) The pesticide or pesticides to be used.
36 (3) The method of application.
37 (4) Emergency contact information for the applicator.
38 (5) A map of the property that is being treated.

39 14085.1. (a) When the Kern County Agricultural
40 Commissioner receives a notice of intent pursuant to Section

1 14085, he or she shall notify adjacent permittees that a restricted
2 material is scheduled to be used or applied on an adjacent
3 property. If an adjacent property is not currently operated by a
4 permittee, the commissioner shall notify the prior permittee. The
5 commissioner shall also inform the applicant as to the permittees
6 to whom this notification was provided.

7 (b) The commissioner shall determine whether to approve,
8 deny, or impose conditions upon the proposed pesticide
9 application. The commissioner shall assist in resolving any
10 dispute relating to the proposed application between the applicant
11 and any adjacent permittee. A request for review of the
12 commissioner's decision shall be made in accordance with
13 Section 14009.

14 14085.2. (a) After receiving notice from the commissioner
15 pursuant to Section 14085.1 that the application of a restricted
16 material is to occur on an adjacent property, a permittee shall
17 determine whether the application will create a health risk for
18 any person employed on property under his or her control and
19 take all necessary steps to protect those workers from pesticide
20 exposure.

21 (b) An adjacent permittee may also confer with the applicant
22 to suggest an agreeable alternative application plan, within the
23 limits of the applicant's permit, that would better protect at-risk
24 workers from pesticide exposure. If a resolution is not reached,
25 he or she may contact the commissioner for assistance in
26 resolving the conflict.

27 14085.3. This article shall become inoperative on January 1,
28 2009, unless a later enacted statute deletes or extends that date.

29 SEC. 4. If the Commission on State Mandates determines that
30 this act contains costs mandated by the state, reimbursement to
31 local agencies and school districts for those costs shall be made
32 pursuant to Part 7 (commencing with Section 17500) of Division
33 4 of Title 2 of the Government Code.